**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Date of Reserve: July 28, 2010**
**Date of Order: 12th August, 2010**

**Crl.M.C.No. 2094/2010 % 12.08.2010**

**Gulam Rashid Ali ... Petitioner Through: Mr. K.M.M.Khan, Advocate**
**Versus**
**Kaushar Parveen & Anr. ... Respondents**

**JUSTICE SHIV NARAYAN DHINGRA**

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

**JUDGMENT**

By this petition, the petitioner has assailed an order dated 2nd March, 2009 passed by the learned Metropolitan Magistrate granting maintenance of Rs.2000/- per month for the minor daughter of the petitioner who is living separate from the petitioner with the mother. The sole contention raised by the petitioner before this Court is that in view of Section 3(1)(b) of Muslim Women (Protection of Rights on Divorce) Act, 1986 the right of the child to claim maintenance from father after two years of divorce of the mother does not survive.

I consider that this contention is a baseless contention. Even a wife who has been divorced under Muslim Law is entitled to claim maintenance under Section 125 Cr.P.C. after Iddat period. Supreme Court in Shabana Bano v. Imran Khan Crl.Appeal No. 2309/2009 decided on 4th December, 2009 had observed that petition under Section 125 Cr.P.C would be maintainable (for the wife) before Family Courts so long as she does not remarry and the amount of maintenance to be awarded under Section 125 Cr.P.C. cannot be restricted for Iddat period only. The Supreme Court observed that the cumulative effect of reading of judgments of Supreme Court in Danial Latifi & Anr. v. Union of India (2001) 7 SCC 740 and Iqbal Bano v. State of UP & Anr. (2007) 6 SCC 785 makes it crystal clear that even a Muslim divorced woman would be entitled to claim maintenance from a

Muslim husband till she has not married. This being a beneficial piece of legislation, the benefit must accrue to the divorced Muslim women.

**2.** I consider that the benefit under Section 125 Cr.P.C. cannot be denied to a minor daughter because of any restrictive provision contained in Muslim Women (Protection of Rights on Divorce) Act, 1986. The petition has no force and is hereby dismissed.

**August 12, 2010**
**SHIV NARAYAN DHINGRA, J.** vn